



State of Wisconsin • DEPARTMENT OF REVENUE

DIVISION OF STATE AND LOCAL FINANCE • BUREAU OF UTILITY AND SPECIAL TAXES • 125 South Webster Street • P.O. Box 8933 •
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REAL ESTATE TRANSFER NEWS

April 1999

The following questions and answers are given as general interpretations of the Wisconsin Administrative Code and Statutes. Should you have any questions, please write to:

Division of State & Local Finance
Bureau of Utility & Special Taxes
Wisconsin Department of Revenue
P.O. Box 8933
Madison, WI 53708-8933

This newsletter may be found on the Internet at DOR's homepage at <http://www.dor.state.wi.us>

- 1Q.** My company has just started handling resale of foreclosed properties by Federal Home Loan Mortgage Corporation (Freddie Mac). My question is whether or not a transfer fee will be due when they sell to a new buyer, or does exemption s. 77.25(2), Stats. apply to the sale?
- A.** Freddie Mac is exempt from transfer fee per s. 77.25(2), Stats. as an instrumentality of the United States based upon Rust v. Johnson, 597 F.2d 174 (9th Cir. 1979). Federal Home Loan Mortgage Corporation (Freddie Mac) and Federal National Mortgage Association (Fannie Mae) are exempt from transfer fee per s. 77.25(2), "From the United States or from this state or from any instrumentality, agency or subdivision of either." The exemption from real estate transfer fee is not by their charter under 12 USCS § 1732a(c) since they are subject to state and local real estate taxes.
- 2Q.** I represent a limited liability company (LLC) with two unrelated members. The real estate is titled in the LLC's name. One member is having his interest redeemed by the LLC, and we want to record a deed from him to the LLC to avoid a possible cloud on the title. The LLC will continue as a one member LLC. Is this deed exempt from fee?
- A.** Yes. There is no interest in real property conveyed, but only the membership interest in the LLC, which is personal property. The deed should list the grantor by the LLC's name and each member's name. The grantee should be shown as the LLC and the remaining member. To exempt the recording from a transfer return, a description should be added explaining "this is a conveyance of a membership interest only and not a conveyance of real property and no return or fee due per s. 77.21(1), Stats." This section defines conveyances. If you prefer to use a transfer return, exemption 3 may be used on Line 59. Line 59a should show the document number of the deed by which the LLC took title of the real estate originally.
- 3Q.** We are recording a deed that conveys a lease of 30 years remaining on an original 99-year lease. Is this conveyance subject to transfer return and fee?
- A.** Yes. A lease for at least 99 years and a conveyance of any remaining portion thereof is defined as a passage of ownership interest in real property per s. 77.21(1), Stats. and requires a transfer return. A transfer fee would be due per s. 77.21(3), Stats. unless expressly exempted under s. 77.25, Stats.
- 4Q.** I have a deed that has the Federal Revenue Stamps on it. How do I calculate the price paid for the property from these stamps?
- A.** Prior to 1969, the United States government had a revenue stamp that was at the rate of \$0.55 on each \$500.00, or fractional part thereof, of the sale price or value of the property conveyed. Values less than \$100.00 was exempt from the stamp.

- 5Q.** Is the following satisfaction of a land contract exempt per s. 77.25(17), Stats? A city sells property to an individual on land contract and the transfer return (required since the transferor is the lender) was filed using exemption 2. Later the city sells its vendor's interest in the land contract to another individual and records the assignment without a return as the vendor's interest is a personal interest in a debt. Now the deed in satisfaction is being recorded, does exemption 17 apply since the land contract was exempt and the current vendor is not a governmental agency?
- A.** Yes. Since the original vendor was a governmental agency and exemption s. 77.25(2), Stats. was properly used, the satisfaction is exempt per s. 77.25(17), Stats. regardless of the current vendor.
- 6Q.** We have discovered that the transfer return had an incorrect social security number for the grantor. How do we correct this mistake?
- A.** Send a copy of the original return, a copy of the recorded deed and a letter explaining the error and the correct social security number to: Wisconsin Department of Revenue, Bureau of Utility & Special Taxes, PO Box 8933, Madison, WI 53708-8933. You do not need to complete an "Amended Return."
- 7Q.** Is the transfer fee due on a deferred land contract when there is an assignment of a vendor's interest in a land contract?
- A.** No. An assignment of a vendor's interest does not provide for the passage of ownership interest in real property and does not require a transfer return under s. 77.21(1), Stats. Since a return is not required for a conveyance of a vendor's interest and typically does not involve the vendee, the deferred original land contract can remain deferred until satisfied or upon an assignment of the vendee's interest in the land contract. Note that an assignment of a vendee's interest is not only subject to fee but also requires a transfer fee on the original deferred land contract, because equitable conversion gives the vendee an ownership interest in the real estate.
- 8Q.** A parcel of land is owned by a partnership consisting of a father and son. Pursuant to a divorce judgement, the father must convey his half interest in the property to his wife. A deed is prepared that transfers the property from the partnership to the wife and son. Thus, this deed transfers the father's interest to the wife as required by the judgement. The son continues to own one half interest. Is the transfer from the partnership exempt from transfer fee by exemption 8m or 15m?
- A.** No. The above conveyance from the partnership would not be exempt by either exemption and would be subject to fee. The father and son own a partnership interest and not the real property and the wife is not a partner. Exemption 8m is for conveyances of real property between spouses while exemption 15m is between a partnership and its partners. The transaction may be exempted from fee by using two deeds where the partnership first conveys the property to the father and son using exemption 15m and the next conveyance from the father, his one half interest to the wife using exemption 8m.
- 9Q.** My neighbor and I had a new survey done and we need to record a deed that corrects the lot line between us. How do I complete the transfer return for a lot line correction?
- A.** Since the lot line correction is not a real estate conveyance, a transfer return is not required. Add a description on the deed to the effect that "this is a lot line correction to the above legal description and not a conveyance of real property per s. 77.21(1), Stats." If a transfer return is filed, Line 52 should be checked "Other" and explain "Lot line correction" (as much as fits in space allowed). The exemption on Line 59 can be either 3 or 13. If 3 is used, Line 59a should have the document number by which the owner originally took title. *(Related items - Questions 21 and 24, RETN 1/92)*